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Attorneys for Defendant
General Motors LLC

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

RUDOLFO FIDEL MENDOZA,
individually and on behalf of a class of
similarly situated individuals,

Plaintiff,

vs.

GENERAL MOTORS LLC,

Defendant.

Case No. CV 10-2683 AHM (VBKx)

**MOTION TO DISMISS FOR LACK
OF SUBJECT MATTER
JURISDICTION [F.R.Civ.P.
12(b)(1)] OR, ALTERNATIVELY,
FOR TRANSFER TO THE
SOUTHERN DISTRICT OF NEW
YORK FOR REFERRAL TO THE
BANKRUPTCY COURT [28 U.S.C.
§ 1412]**

Hearing Date: September 27, 2010
Time: 10:00 a.m.
Courtroom 14
Honorable A. Howard Matz

TO PLAINTIFF AND HIS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on September 27, 2010, at the hour of 10:00 a.m., or as soon thereafter as counsel may be heard, in Courtroom 14, United States Courthouse, 312 North Spring Street, Los Angeles, California, defendant General Motors LLC ("New GM") will move

(1) for an order pursuant to Rule 12(b)(1) dismissing plaintiff's complaint on the grounds that the Court lacks subject matter jurisdiction as the result of an order issued by the United States Bankruptcy Court for the

1 Southern District of New York in the General Motors Corporation (“Old
2 GM”) bankruptcy proceedings (In re Motors Liquidation Company, No. 09-
3 50026) in which that court retained exclusive jurisdiction (a) to enforce the
4 terms of its order approving the sale of assets by Old GM to New GM under
5 section 363 of the Bankruptcy Code free and clear of any liabilities of Old
6 GM (with limited exceptions) and (b) to protect New GM against the
7 assertion of such claims, including the claims asserted by plaintiff in this
8 case,

9 or, in the alternative,

10 (2) for an order pursuant to 28 U.S.C. § 1412 transferring this “core”
11 bankruptcy matter to the United States District Court for the Southern
12 District of New York for referral to the Bankruptcy Court.

13 The motion is made on the ground that this Court lacks subject matter
14 jurisdiction and that the Bankruptcy Court for the Southern District of New York is
15 in any event the proper tribunal for interpreting and enforcing its order approving
16 the terms of the section 363 transaction between Old GM and New GM and
17 protecting New GM from claims such as those asserted in this action.

18 The motion is based on the accompanying memorandum of points and
19 authorities, declaration and request for judicial notice and upon all pleadings papers
20 and other evidence on file herein and such argument as the Court may entertain.

21 This motion follows the conference of counsel pursuant to L.R. 7-3 that
22 occurred on June 15, 2010.

23 Dated: August 13, 2010

GREGORY R. OXFORD
ISAACS CLOUSE CROSE & OXFORD LLP

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27 By: /s/

Gregory R. Oxford
Attorneys for Defendant
General Motors LLC

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